

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT	)	PDC CASE NO: 01-203 and 01-204
ACTION AGAINST	)	
	)	
King County	)	Notice of Administrative
King County Department of Transportation	)	Charges
King County Transit	)	
	)	
Respondents.	)	
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IT IS ALLEGED as follows:

**I.**  
**JURISDICTION**

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

**II.**  
**LAW**

RCW 42.17.680 states in part:

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The request is valid for no more than twelve months from the date it is made by the employee.

WAC 390-17-100

(1) For purposes of RCW 42.17.680(3), all political contribution withholding authorizations existing on or before January 1, 1993, will expire no later than December 31, 1993. Beginning January 1, 1994, each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington

(a) For the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17.040, 42.17.050, 42.17.060 or 42.17.090(1)(k) or

(b) For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Employers may either use the suggested format below or their own form if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name, city and state of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) The date on which the authorized withholdings or diversions are to be effective;

(f) A statement specifying that the authorization is not valid for more than 12 months after the effective date;

(g) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee;"

(h) The individual's signature; and

(i) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above. The forms may accommodate annual re-authorization by providing space for the employee's signature and the date of re-authorization is signed, up to three re-authorizations.

### **III.** **BACKGROUND**

On March 26, 2001, a “45-Day Notice of Violation” complaint letter was filed with the Office of the Attorney General and the Office of the King County Prosecutor by Monte Benham of Permanent Offense against King County, King County Department of Transportation, King County Transit, and Amalgamated Transit Union Local 587 (ATU Local 587). The letter was received by the Office of the Attorney General on March 28, 2001. The complaint alleged that a special assessment was withheld from the paychecks of employees of King County, specifically employees who worked for King County Transit within the King County Department of Transportation, to fight Initiative 745 (a statewide initiative on the November 7, 2000 ballot) without first obtaining the required written authorization from each employee, an alleged violation of RCW 42.17.680. Both the Office of the Attorney General and the Office of the King County Prosecutor referred the complaint to the Public Disclosure Commission (PDC) for investigation and appropriate disposition.

On March 29, 2001, a complaint was received from David J. Cornelson, an employee of King County, who works for King County Transit within the King County Department of Transportation, alleging that a special assessment to fight Initiative 745 had been deducted from the paychecks of King County employees who worked for King County Transit within the King County Department of Transportation without the proper written authorization.

PDC staff reviewed both complaints and the responses from King County, King County Department of Transportation, King County Transit, and ATU Local 587. PDC staff also interviewed Monte Benham, Mary Peterson, Assistant Director of King County Transit, Mildred Llarenas, King County Payroll Supervisor, Paul Toliver, Director of the King County Department of Transportation, and Lance Norton, President of ATU Local 587.

#### **IV.** **FACTS**

These charges incorporate the Report of Investigation and all of its exhibits by reference.

In August, 2000, officials of King County, King County Department of Transportation, and King County Transit became aware that ATU Local 587 intended to hold an election to determine whether it would make a special assessment of its membership to oppose Initiative 745. On August 14, 2000, Clifford Freed, an attorney for ATU Local 587, sent a letter to Paul Toliver, Director of the King County Department of Transportation, asserting the union's right to conduct a special election for an assessment to oppose Initiative 745. On August 16, 2000, ATU Local 587 sent a letter to Paul Toliver, advising him of the upcoming election. The special assessment election was held August 24, 2000. The membership voted to have a special assessment of \$50 deducted from each member's pay at the rate of \$10 per pay period for five pay periods. Union members were given the opportunity to sign a waiver if they did not want the special assessment deducted from their pay. The waiver is not sufficient to meet the requirements of RCW 42.17.680 or WAC 390-17-100.

Paul Toliver, Director of the King County Department of Transportation, acknowledged that on August 14, 2000, he learned of the special assessment election and became aware that the funds would be used to oppose Initiative 745. Mr. Toliver said he did not know how the union intended to oppose Initiative 745.

Mary Peterson, Assistant Director of King County Transit, acknowledged that prior to August 14, 2000 she became aware that the purpose of the special assessment was to oppose Initiative 745. Ms. Peterson said she did not know exactly how the union intended to use the special assessment.

On August 25, 2000, Paul Griffin, Financial Secretary for ATU Local 587, notified King County Payroll Supervisor Mildred Llarenas that the union membership had elected to assess each member \$50 in special dues to “fight I-745.” In the August 25<sup>th</sup> letter, the Union put King County, King County Department of Transportation, and King County Transit on notice that the purpose of the special assessment was to oppose Initiative 745.

Ms. Llarenas stated that King County withheld approximately \$155,000 from the pay of ATU Local 587 members between September 28 and November 23, 2000. Approximately 3,000 employees had the special assessment withheld. The total amount withheld was \$155,797.24. Ms. Llarenas said she knew that the funds would be used to oppose Initiative 745. Ms. Llarenas said approximately 240 union members signed a union waiver form and did not have the special assessment withheld. King County Payroll remitted the special assessment funds to ATU Local 587. Ms. Llarenas stated that King County did not obtain a written authorization from each union employee authorizing the special assessment deduction.

ATU Local 587 used the special assessment funds to make political contributions. For example, Citizens for Real Transportation Choices, a political committee, reported receiving from ATU Local 587 \$75,000 on October 4, 2000, \$4,800 on October 31, 2000, and \$2,500 on October 2, 2000. In addition, Amalgamated Transit Union Legislative Council Committee on No I-745 reported receiving \$13,000 from ATU Local 587 on October 14, 2000.

**V.**  
**CONCLUSION**

Staff alleges, based on the facts specified in Section IV, that King County, King County Department of Transportation, and King County Transit violated **RCW 42.17.680** by failing to obtain written authorization as required by RCW 42.17.680 and WAC 390-17-100 prior to withholding a special assessment from the wages of its employees, between September 28 and November 23, 2000, for use as political contributions.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of May, 2001.

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Philip E. Stutzman  
Director of Compliance